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India

Country:

[India](#)

Year:

2016

Freedom Status:

Free

Political Rights:

2

Civil Liberties:

3

Aggregate Score:

77

Freedom Rating:

2.5

Overview:

The “Modi Wave” that swept Prime Minister Narendra Modi to power in the 2014 national elections experienced some setbacks in 2015, with major defeats for his Bharatiya Janata Party (BJP) in Delhi and Bihar state elections and retreats on key elements of the government’s reform agenda. Meanwhile, threats to freedom of expression increased, including intimidation of and attacks against writers, journalists, academics, and bloggers by Hindu extremist groups. An uptick in violence against Muslims was linked to a campaign led by Hindu nationalists to tighten legal restrictions on the sale and consumption of beef.

Political Rights and Civil Liberties:**Political Rights: 35 / 40 [Key]****A. Electoral Process: 12 / 12**

Elections have generally been free and fair. Members of the lower house of Parliament, the 545-seat Lok Sabha (House of the People), are directly elected in single-member constituencies for five-year terms, except for two appointed members representing Indians of European descent. The Lok Sabha determines the leadership and composition of the government. Most members of the less powerful 250-seat upper house, the Rajya Sabha

(Council of States), are elected by state legislatures using a proportional-representation system to serve staggered six-year terms; up to 12 members are appointed. Executive power is vested in a prime minister and cabinet. The president, who plays a largely symbolic role but possesses some important powers, is chosen for a five-year term by state and national lawmakers. Current president Pranab Mukherjee, a former cabinet minister and veteran Congress Party leader, was elected in 2012.

In the 2014 Lok Sabha elections, the BJP won 282 seats and its National Democratic Alliance (NDA) coalition won 336, ensuring a stable majority for the new government; turnout was 66 percent. The incumbent Congress Party and its United Progressive Alliance (UPA), headed by Rahul Gandhi, won just 44 and 60 seats, respectively. Modi, a three-term chief minister from the western state of Gujarat, was sworn in as prime minister. The elections, conducted with electronic voting machines, were broadly free and fair.

The Congress Party and its allies still controlled the Rajya Sabha in 2015 with 126 seats; the BJP-led alliance held only 63. Opposition to BJP policies in the upper chamber led the government to abandon key agenda items during the year, including a land acquisition bill. The BJP controls the governments of just eight of India's 29 states.

Elections held in the capital territory of Delhi in February 2015 and the state of Bihar in five phases from October to November were generally seen as free and fair. In Delhi, the anticorruption Aam Aadmi Party, formally launched in 2012, won a landslide victory with 67 of 70 seats in the legislative assembly. Despite extensive campaigning by Modi in Bihar, the BJP won only 58 of 243 seats against a coalition that included Rashtriya Janata Dal, Janata Dal, and the Congress Party, which together won 178 seats.

B. Political Pluralism and Participation: 14 / 16

India hosts a dynamic multiparty system. The Congress Party ruled at the federal level for nearly all of the first 50 years of independence, but the BJP became a major force in Parliament in the 1990s. Recent elections have tended to result in ruling coalitions involving large numbers of parties; the contests are fiercely competitive and characterized by anti-incumbency voting trends. In 2014, the two main national parties won only about 50 percent of the vote combined. Nonetheless, the disproportionate translation of votes to seats put the BJP in the clear majority in the lower house, marking the first time a single party won a majority of seats in the Lok Sabha since 1984. It also relegated the Congress Party to its weakest position to date.

Political participation is affected to a certain degree by insurgent violence in some areas and ongoing practical disadvantages for some marginalized segments of the population. Nevertheless, women, religious and ethnic minorities, and the poor vote in large numbers. There is some representation for historically marginalized groups. The current BJP government includes one Muslim cabinet minister, for minority affairs. Twenty-two Muslims were elected to the Lok Sabha in 2014. Quotas for the chamber ensure that 84 and 47 seats are reserved for the so-called scheduled castes (Dalits) and scheduled tribes, respectively. There are similar quotas for these historically disadvantaged groups in state assemblies.

Modi is a controversial figure due to his role as chief minister during the 2002 Gujarat riots, an outbreak of communal violence in which more than 1,000 Muslims were killed, and in which he has been accused of complicity. There was evidence of a BJP strategy of communal polarization in the states of Uttar Pradesh and Assam in 2013 and 2014 surrounding the parliamentary election campaign; divisive speeches by politicians including Modi and Amit Shah—Modi's Uttar Pradesh campaign chief and the current national BJP party president—were blamed for fueling or capitalizing on deadly communal clashes.

C. Functioning of Government: 9 / 12

Elected leaders have the authority to govern in practice, and civilian control of the military is codified in the constitution. However, political corruption has a negative effect on government efficiency and economic performance. India was ranked 76 out of 168 countries and territories surveyed in Transparency International's 2015 Corruption Perceptions Index. Though politicians and civil servants at all levels are regularly caught accepting bribes or engaging in other corrupt behavior, a great deal of corruption goes unnoticed and unpunished. This is particularly the case in the energy and construction sectors, and in state infrastructure projects more broadly.

Domestic and international pressure has led to legislation aimed at addressing corruption. The Lokpal and Lokayuktas Act, which the president signed in 2014, creates independent government bodies tasked with receiving complaints of corruption against public servants or politicians, investigating claims, and pursuing convictions through the courts. Modi and members of his government have signaled support for the law, but there is little evidence that it is being effectively implemented.

The 2005 Right to Information (RTI) Act is widely used to improve transparency and expose corrupt activities, though there are questions about its enforcement. Since the enactment of the RTI Act, at least 45 right to information users and activists have been murdered and more than 250 have been assaulted or harassed. In May 2015, the Lok Sabha adopted amendments to the 2014 Whistleblowers Protection Act. Opposition members criticized the changes for diluting the effectiveness of the act, which was already regarded as limited in scope. The amendments had not been considered by the Rajya Sabha as of December.

Civil Liberties: 42 / 60 (-1)

D. Freedom of Expression and Belief: 13 / 16

The private media are vigorous and diverse, and investigations and scrutiny of politicians are common. Nevertheless, revelations of close relationships between politicians, business executives, and lobbyists and some leading media personalities and owners of media outlets have dented public confidence in the press in recent years. In the period surrounding the 2014 Lok Sabha elections, major media owners reportedly put pressure

on journalists in order to avoid the political consequences of publishing critical stories on key parties and politicians; similar forms of self-censorship continued in 2015.

While the state continues to dominate the radio sector, and private radio stations are not allowed to air news content, the television and print sectors have expanded considerably over the past decade, with many new outlets targeting specific regional or linguistic audiences.

Internet access is largely unrestricted, though officials periodically implement overly broad blocks on supposedly offensive content to prevent communal or political unrest. The 2000 Information Technology Act criminalizes the sending of offensive messages by computer, and this has been interpreted to allow for censorship of critical commentary on political parties and specific politicians. For example, in the month after the 2014 elections, at least 18 people were reportedly arrested and questioned for anti-Modi posts on social-media platforms such as Twitter and Facebook. The authorities have also used security laws, criminal defamation legislation, hate-speech laws, and contempt-of-court charges to curb critical voices on both social media and traditional media platforms.

There is increasing concern about harassment of bloggers and social-media users by Hindu nationalists. Hindu groups have also mobilized to suppress books that are perceived as critical of Hinduism or Hindu nationalism. In 2014, in response to a lawsuit, a publisher withdrew U.S. academic Wendy Doniger's book *The Hindus: An Alternative History* from sale; a different publisher made it available in 2015.

Hindus make up about 80 percent of the population, but the Indian state is formally secular. Freedom of religion is constitutionally guaranteed and generally respected in practice. However, legislation in several Hindu-majority states criminalizes religious conversions that take place as a result of "force" or "allurement," which can be broadly interpreted to prosecute proselytizers. Some states require government permission for conversion.

An array of Hindu nationalist organizations and some local media outlets promote antiminority views, a practice that critics charge is tolerated or even encouraged by the Hindu nationalist government of Prime Minister Modi. In 2015, growing antiminority violence was linked to increasingly aggressive Hindu nationalists and a campaign to ban the sale and consumption of beef, which targets Muslims. The BJP-led state of Maharashtra has enacted the strictest ban in the country, though other states have various limits and prohibitions on the slaughter, sale, or consumption of beef. In September, a Muslim farmer in the state of Uttar Pradesh was killed by a Hindu mob that suspected him of having killed and eaten a calf.

Academic freedom is generally robust, though intimidation of professors and institutions over political and religious issues sometimes occurs. Violent attacks and threats against liberal writers and academics by radical Hindu nationalists increased during 2015. In August, M. M. Kalburgi, a scholar and critic of Hindu idol worship, was shot dead at his home. Hindu extremist groups such as Sri Ram Sene and Sanatan Sanstha have threatened secular thinkers. This climate of violence and intimidation and the general lack of response from the government have had a chilling effect among Indian intellectuals. Separately, scholars and activists accused of sympathizing with Maoist insurgents have faced pressure from authorities and alleged torture by police.

Private discussion in India is generally open and free. However, a nationwide Central Monitoring System launched in 2013 is meant to enable authorities to intercept any digital communication in real time without judicial oversight; India does not have a privacy law to protect citizens in case of abuse.

E. Associational and Organizational Rights: 10 / 12 (-1)

There are some restrictions on freedoms of assembly and association. Section 144 of the criminal procedure code empowers the authorities to restrict free assembly and impose curfews whenever “immediate prevention or speedy remedy” is required. State laws based on this standard are often abused to limit the holding of meetings and assemblies. Nevertheless, protest events take place regularly.

Human rights organizations operate freely, but they continue to face threats, legal harassment, excessive police force, and occasionally lethal violence. While India is home to a strong civil society sector and academic community, foreign monitors and journalists are at times denied visas to conduct research in the country on human rights and other topics. Under certain circumstances, the Foreign Contributions Regulation Act (FCRA) permits the federal government to deny nongovernmental organizations access to foreign funding. The government has been accused of abusing this power to target political opponents. In April 2015, the authorities canceled the FCRA licenses of some 9,000 charities for failing to declare details about foreign donations. The crackdown included the suspension of Greenpeace’s license for the additional infraction of damaging India’s economic interests; Greenpeace has campaigned against environmental damage caused by energy-producing industries. The government also put the Ford Foundation on a watch list in April while it investigated the foundation’s funding of a local organization run by a critic of Modi.

Although workers in the formal economy regularly exercise their rights to bargain collectively and strike, the Essential Services Maintenance Act has enabled the government to ban certain strikes. New labor laws passed in Rajasthan in 2015 raised the threshold for unionization (in terms of the number of workers) and granted employers greater power over dismissals.

F. Rule of Law: 9 / 16

The judiciary is independent of the executive branch. Judges have displayed considerable activism in response to public-interest litigation matters. However, the lower levels of the judiciary in particular have been rife with corruption, and most citizens have great difficulty securing justice through the courts. The system is severely backlogged and understaffed, leading to lengthy pretrial detention for a large number of suspects, many of whom remain in jail longer than the duration of any sentence they might receive if convicted.

Police torture, abuse, and corruption are entrenched in the law enforcement system. Citizens frequently face substantial obstacles, including demands for bribes, in getting the police to file a First Information Report, which is necessary to trigger an investigation of an

alleged crime. Custodial rape of female detainees continues to be a problem, as does routine abuse of ordinary prisoners, particularly minorities and members of the lower castes. According to the National Human Rights Commission (NHRC), 111 deaths occurred in police custody during the last eight months of 2015.

The NHRC is headed by a retired Supreme Court judge and handles roughly 8,000 complaints each year. While it monitors abuses, initiates investigations, makes independent assessments, and conducts training sessions for the police and others, its recommendations are often not implemented and it has few enforcement powers. The commission also lacks jurisdiction over the armed forces, one of the principal agents of abuse in several parts of the country, further hampering its effectiveness. The NHRC nevertheless makes a contribution to accountability by submitting reports to international bodies such as the UN Human Rights Council, often contradicting the government's account of its performance.

Security forces operating in the context of regional insurgencies continue to be implicated in extrajudicial killings, rape, torture, arbitrary detention, kidnappings, and destruction of homes. The criminal procedure code requires that the government approve the prosecution of security force members; approval is rarely granted, leading to impunity. The Armed Forces Special Powers Act grants security forces broad authority to arrest, detain, and use force against suspects in restive areas; civil society organizations and multiple UN human rights bodies have called for the act to be repealed. A number of other security laws allow detention without charge or based on vaguely worded offenses.

The Maoist insurgency in the east-central hills region of India is of serious concern, although the annual number of casualties has decreased since its peak in 2010. The South Asia Terrorism Portal (SATP) documented 251 related fatalities—including 93 civilian deaths—in 2015. Among other abuses, the rebels have allegedly imposed illegal taxes, seized food and shelter, and engaged in abduction and forced recruitment of children and adults. Local civilians and journalists who are perceived to be progovernment have been targeted. Tens of thousands of civilians have been displaced by the violence and live in government-run camps.

Separately, in India's seven northeastern states, more than 40 insurgent factions—seeking either greater autonomy or complete independence for their ethnic or tribal groups—continue to attack security forces and engage in intertribal violence. Such fighters have been implicated in numerous bombings, killings, abductions, and rapes of civilians, and they operate extensive extortion networks. The number of deaths related to the northeastern insurgencies decreased from 465 in 2014 to 273 in 2015, according to the SATP.

The criminal justice system fails to provide equal protection to marginalized groups. Muslims, who make up 14 percent of the population, are underrepresented in the security forces as well as in the foreign and intelligence services. In parts of the country, particularly in rural areas, informal community councils issue edicts concerning social customs. Their decisions sometimes result in violence or persecution aimed at those perceived to have transgressed social norms, especially women and members of the lower castes.

The constitution bars discrimination based on caste, and laws set aside quotas in education and government jobs for historically underprivileged scheduled tribes, Dalits, and groups categorized by the government as “other backward classes.” However, members of the lower castes and minorities continue to face routine discrimination and violence. Many Dalits are denied access to land and other public amenities, are abused by landlords and police, and work in miserable conditions.

The penal code forbids “intercourse against the order of nature.” A 2009 decision by the Delhi High Court decriminalized consensual sex between adult men in private. However, a panel of the Supreme Court reversed that ruling in 2013, finding that an act of Parliament would be required to change the penal code. Such a bill was introduced in December 2015 but voted down in the lower house. Widespread discrimination against LGBT (lesbian, gay, bisexual, and transgender) people continues, including violence and harassment in some cases, though the Supreme Court recognized transgender people as a third gender in 2014.

G. Personal Autonomy and Individual Rights: 10 / 16

Freedom of movement is hampered in some parts of the country by insurgent violence or communal tensions, though violence from insurgencies has decreased in recent years. Property rights are somewhat tenuous for tribal groups and other marginalized communities, and members of these groups are often denied adequate resettlement opportunities and compensation when their lands are seized for development projects. While many states have laws to prevent transfers of tribal land to nontribal groups, the practice is reportedly widespread, particularly with respect to the mining and timber industries. A 2013 law provided increased rights to people threatened with displacement for industrial and infrastructure projects, but critics said it included arbitrary rules and went too far in restricting development. The Modi government sought to weaken these protections, but abandoned the effort due to opposition in the upper house.

There is some degree of female representation in government. Modi’s cabinet includes seven female ministers; chief ministers in the states of Tamil Nadu, Gujarat, Rajasthan, and West Bengal are women. Female quotas are in place for elected positions in India’s three-tier local government system.

Rape, harassment, and other transgressions against women are serious problems, and lower-caste and tribal women are particularly vulnerable. Mass demonstrations after the fatal gang rape of a woman on a Delhi bus in 2012 prompted the government to enact significant legal reforms. However, egregious new cases, including the rapes of children under the age of 5, emerged in 2015, leading to calls for further action. Despite criminalization and hundreds of convictions each year, dowry demands persist. A 2006 law banned dowry-related harassment, widened the definition of domestic violence to include emotional or verbal abuse, and criminalized spousal rape. However, reports indicate that enforcement is poor.

Muslim personal laws and traditional Hindu practices discriminate against women in terms of inheritance, adoption, and property rights. The malign neglect of female children after

birth remains a concern, as does the banned but growing use of prenatal sex-determination tests to selectively abort female fetuses.

Article 23 of the constitution bans human trafficking, and bonded labor is illegal, but the practice is fairly common. Estimates of the number of affected workers range from 20 to 50 million. Children are banned from working in potentially hazardous industries, though in practice the law is routinely flouted.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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